



USET Sovereignty Protection Fund, Inc.

Nashville, TN Office:

711 Stewarts Ferry Pike, Suite 100
Nashville, TN 37214
Phone: (615) 872-7900
Fax: (615) 872-7417

Washington, DC Office:

400 North Capitol Street, Suite 585
Washington, D.C., 20001
Phone: (202) 624-3550
Fax: (202) 393-5218

July 28, 2016

Transmitted electronically to:
ejstrategy@epa.gov

Charles Lee
Deputy Associate Administrator for Environmental Justice
USEPA, Office of Environmental Justice (2201-A)
1200 Pennsylvania Ave., NW
Washington, CC 20460

Re: Comments on EPA EJ 2020 Draft Action Agenda

Dear Deputy Associate Administrator Lee,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we are pleased to submit comments concerning the U.S. Environmental Protection Agency's (EPA) strategic plan for environmental justice for 2016-2020. The final draft of the strategic plan is also known as the EJ 2020 Action Agenda (EJ 2020).

USET SPF is an intertribal organization comprised of twenty-six federally recognized Tribal Nations, ranging from Maine to Florida to Texas¹. Since its incorporation more than 45 years ago, USET has placed emphasis on the conservation, protection and preservation of the environment, and the overall health and wellbeing of Tribal communities.

Environmental justice is a multi-faceted concern for Tribal Nations. Urgent, pressing issues are numerous and varied, including disproportionate adverse health, economic, and cultural impacts due to the siting of industrial facilities, climate change and extreme weather events, the locations of superfund sites, hydraulic fracturing and re-injection of spent fluids into groundwater sources, gas pipeline expansions, and many other threats to the public health, economic security, and cultural integrity of Tribal Nations

First, we commend the EPA for its efforts to advance environmental justice; development of a suite of programs, actions, and measures to make a visible difference in the environmental and public health

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

landscape; and the vision to cultivate strong partnerships to achieve better environmental outcomes and reduce disparities in overburdened communities.

Second, we support the goals of EJ 2020 to deepen environmental justice practice within EPA programs to improve the health and environment of overburdened communities; work with partners to expand our positive impact within overburdened communities; and demonstrate progress on significant national environmental justice challenges. Furthermore, we support the three goals outlined in the vision of the final draft EJ 2020 Action Agenda, in particular elements to implement the EPA policy on environmental justice for working with federally recognized Tribal Nations; to develop a systematic approach to reducing environmental and health disparities for Tribal populations and improvement of air, water and land in the most overburdened communities; and to collaborate with Tribal regulatory partners to develop innovative monitoring tools, promising practices and approaches; and to promote Tribal sustainability and well-being, and advancing efforts to mitigate the effects of climate change in vulnerable communities.

Among the Key Results, we are especially supportive of the outcome to strengthen EPA's ability to take action on environmental justice concerns and cumulative impacts, and building strong scientific basis for action. Among the tools referenced is the Tribal-Focused Environmental Risk and Sustainability Tool (T-FERST). USET developed the prototype of the T-FERST tool in partnership with the EPA Office of Research and Development. T-FERST would advance the science and understanding of cumulative health risks, build capacity to address specific Tribal environmental problems, and create decision-making tools to inform management decisions for sustainable and healthy communities in Indian Country. We are committed to the next phase to refine the beta version, with a goal to publish a web-based tool for use by Tribal Nations and others charged with protecting human health in Indian Country.

At this juncture, the Tribal-FERST project is delayed primarily due to issues with the interagency agreement between the EPA and the Bureau of Indian Affairs (BIA). In a broader context, we are aware that EPA relies upon collaborating federal agencies, such as the BIA, to serve as the fiduciary partner to process and oversee intergovernmental collaborative projects. We encourage the EPA to move beyond this current model, and invoke its 1984 Indian Policy principle to "take appropriate steps to remove existing legal and procedural impediments to working directly and effectively with Tribal governments on reservation programs." In recent years, EPA has partnered with federal agencies, such as the BIA or Indian Health Service, to serve as fiduciary for intergovernmental projects, and those federal partners have awarded EPA funding to Tribal Nations through ISDEAA contracts or compacts. We strongly encourage EPA to build upon this successful model by taking the next step to establish its own ISDEAA authority to allow direct funding to Tribal Nations. With this in mind, USET SPF joins other Tribal Nations and organizations in calling for the development of a pilot project allowing the EPA and Tribal Nations to begin laying the groundwork for Agency-wide self-governance. We urge to EPA prioritize adopting a Self-Governance model, in which Tribal Nations would receive EPA funding directly through a contract or compact as established in the Indian Self-Determination Education and Assistance Act (ISDEAA, P.L. 93-638).

Finally, we applaud EPA for acknowledging its trust responsibility to federally recognized Tribal Nations; recognizing the right of Tribal governments to self-determination; committing to protect the environment and health of federally recognized Tribal Nations and indigenous peoples; and providing access to the Agency's decision-making processes. USET SPF is encouraged by the strategies and actions that appear in Chapter 9 of the draft EJ 2020 Action Agenda. We know that EPA has long recognized the sovereign status of federally recognized Tribal Nations, and articulated principles in support of Tribal "self-government" and "government-to-government" relations in its 1984 Indian Policy. In keeping with the 1984 Indian Policy, we strongly recommend EPA adhere to the Indian Policy principles, ultimately to recognize and consult with

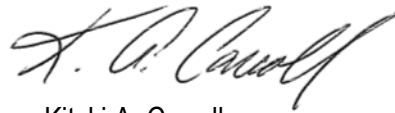
Tribal Nations as the primary parties for setting standards, making environmental policy decisions and managing programs for reservations, consistent with Agency standards and regulations And, further, that EPA must exercise utmost attention and responsibility to engage Tribal Nations as sovereign entities, making appropriate and careful distinctions from “overburdened communities,” “indigenous peoples,” and “minority populations.” We support the EJ 2020 definition of “Tribes,” although we prefer the term, “Tribal Nations.”

On behalf of USET SPF, we thank you for the opportunity to provide written comments concerning the EJ 2020 Action Agenda. We appreciate the commitment of EPA to build on the foundation of its previous plan, Plan EJ 2014; and we look forward to future opportunities to assist with the Agency in its strategic plan for environmental justice. Should you have any questions or require further information, please do not hesitate to contact Ms. Liz Malerba, Director of Policy and Legislative Affairs, USET SPF, at lmalerba@usetinc.org or 202-624-3550.

Sincerely,



Brian Patterson
President



Kitcki A. Carroll
Executive Director

CC: USET Executive Officers
Wanda James, USET Deputy Director
Jerry Pardilla, Director, USET Office of Environmental Resource Management

“Because there is strength in Unity”